

Applicants: Russell A. Houser et al.  
Serial No. : 10/050,944  
Filed : January 22, 2002  
Page : 5

Client's Reference No.: 006001

### Remarks

In view of the above amendment and the following remarks, reconsideration and allowance of this application are requested. Claims 13, 15-21, and 25-36 are pending with claims 26-29 and 31-34 being withdrawn from consideration. Claims 13, 31, and 35 are independent.

Claim 15 is objected to for the use of "as a bottom." In response to the Examiner's request, this has been amended to recite "at a bottom." This objection is believed to be adequately addressed by this amendment.

Claims 13, 15-21, and 25-30, 35, and 36 have been rejected under 35 USC 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention because of the use of the term "or." The Office Action points to MPEP 2173.05(d) with respect to this rejection and states that the use of "or" renders the claims indefinite because the claims include elements not actually disclosed, thereby rendering the scope of the claims unascertainable. Applicants respectfully disagree that the use of the "or" between ski and snowboard causes the claim to fail to particularly point out and distinctly claim the subject matter of the invention or renders the scope of the claims unascertainable. The claims are directed to aspects or features of skis and snowboards, and the term "ski" and "snowboard" have been used in the claims. Further, MPEP 2173.05(d) describes indefiniteness based on the use of exemplary claim language and points to the use in the claims of the terms "for example" and "such as" to explain this type of indefiniteness. Applicants respectfully submit that exemplary language is not used in the pending claims of the instant application and request that this rejection be withdrawn.

Claims 13, 15-21, 25, 30, 35, and 36 are rejected as being anticipated by Julien (U.S. Patent No. 6,267,402). Claim 13 is directed to a ski or snowboard that includes a housing and a superelastic component configured and positioned with respect to the housing to provide an elastic response of the ski or snowboard to a deflection. The superelastic component includes at least one outwardly extending flexible outside edge that extends outwardly beyond the housing and is positioned at either or both of the front of the housing and the rear of the housing in a functionally noncontinuous manner between the front of the housing and the rear of the housing.

Applicants : Russell A. Houser et al.  
Serial No. : 10/050,944  
Filed : January 22, 2002  
Page : 6

Client's Reference No.: 006001

Julien discloses skis that use various superelastic components. Julien notes that skis are to be interpreted as including snowboards. See Col. 3, lines 18-22. Figs. 1 and 2 illustrate a ski or snowboard that includes two superelastic components positioned, and completely encapsulated, within the ski or snowboard. The two superelastic components of Figs. 1 and 2 are not continuous along the entire length of the ski or snowboard. In Figs. 3 and 5-8 Julien variously discloses superelastic edges and superelastic based that are continuous along the entire length of the ski or snowboard. Figs. 9-11 disclose a superelastic component positioned within the front of the ski or snowboard to dampen vibrations. However, Julien does not describe or suggest a ski or snowboard that includes a housing and a superelastic component that includes at least one outwardly extending flexible outside edge that extends outwardly beyond the housing and is positioned at either or both of the front of the housing and the rear of the housing in a functionally noncontinuous manner between the front of the housing and the rear of the housing.

Instead, Julien discloses superelastic components that extend along the entire length of the ski or snowboard (e.g., Figs. 3 and 5-8) and/or are not an outwardly extending flexible outside edge that extends outwardly beyond the housing (e.g., Figs. 1-3 and 5-11). With respect to the ski or snowboard of Fig. 3, Nitinol wires 40 are positioned within narrow tubes that run along at least a portion of the length of the ski/snowboard. These wires are cannot be characterized as being outwardly extending flexible outside edge that extends outwardly beyond the housing, as recited in claim 1, because they neither extend outwardly, are an outside edge, or extend outwardly beyond the housing. The edge pieces 100 are described as being along each longitudinal edge, provide superior edge holding ability, and are immune from rust and corrosion. See Col. 4, lines 56-68. Nothing in Julien describes or suggests the edge pieces 100 as being other than along the entire length of the ski/snowboard.

Fig. 5 illustrates a ski/snowboard with a Nitinol base 95 that is illustrated as running the entire length of the ski/snowboard. See Col. 2, lines 36-54 and Fig. 5. Again, nothing in Julien describes or suggests the base 95 as being other than continuous along the entire length of the ski/snowboard.

Fig. 6 illustrates a ski/snowboard that has an integral base and edge 110 that is made of Nitinol. The base and edge 110 is disclosed as being formed by plasma spraying on to an

Applicants: Russell A. Houser et al.  
Serial No.: 10/050,944  
Filed: January 22, 2002  
Page: 7

Client's Reference No.: 006001

aluminum plate 125. See Col. 5, lines 10-24. Again, nothing in Julien describes or suggests the base and edge 110 as being other than continuous along the entire length of the ski/snowboard.

Figs. 7 and 8 illustrate a Nitinol edge piece 152 "extending longitudinally along both of the ski edges . . . and having a bottom surface 154 flush with the bottom surface 156 of a ski base sheet 160." See Col. 5, lines 25-35 and Figs. 7 and 8. Again, nothing in Julien describes or suggests the Nitinol edge piece 152 as being other than continuous along the entire length of the ski/snowboard.

Figs. 1 and 2 disclose a ski/snowboard that include a Nitinol component embedded within the ski/snowboard. See Col. 3, lines 8-17 and Figs. 1 and 2. Nothing in Julien describes or suggests the Nitinol component as being an outwardly extending flexible outside edge that extends outwardly beyond the housing.

Figs. 9 and 10 illustrate a ski/snowboard that includes a Nitinol component embedded within the ski/snowboard. The component is described as having "arms 182 extending along the two oblique axes and terminating short of the longitudinal edges of the ski." See Col. 5, line 62 through Col. 6, line 7 (emphasis added). The arms are disclosed as being over the top of the ski. Thus, nothing in Julien describes or suggests the component of Figs. 9 and 10 as being characterized as being an outwardly extending flexible outside edge, as recited in claim 13.

Fig. 11 illustrates a ski/snowboard that has a Nitinol structure in the form of a ribbon wrapped in a double helix around the core of the ski. See Col. 6, lines 8-21. Nothing in Julien describes or suggests the ribbon of Fig. 11 as being characterized as being an outwardly extending flexible outside edge, as recited in claim 13.

For at least the above reasons, the rejection of claim 13 as being anticipated by Julien should be withdrawn. Claims 15-21, 25, and 30 depend from claim 13 and are allowable at least for the same reasons that claim 13 is allowable.

Claim 35 is directed to a controllable ski or snow board that includes a house and one or more superelastic components. Like claim 13, the superelastic components of claim 35 extend outwardly and downwardly from the housing and the superelastic components deflect in response to an application of a force to one or more of the superelastic components. The one or more superelastic components are positioned at either or both of the front of the housing and the rear of the housing in a functionally noncontinuous manner between the front of the housing and

Applicants: Russell A. Houser et al.  
Serial No. : 10/050,944  
Filed : January 22, 2002  
Page : 8

Client's Reference No.: 006001

the rear of the housing. The superelastic components are positioned on opposite edges of the ski or snowboard and extend outwardly beyond the housing.

Claim 35 is allowable at least for the reason claim 13 is allowable. Namely, because claim 35, like claim 13, recites a ski or snowboard that includes a housing and a superelastic component that includes at least one outwardly extending flexible outside edge that extends outwardly beyond the housing and is positioned at either or both of the front of the housing and the rear of the housing in a functionally noncontinuous manner between the front of the housing and the rear of the housing.

Claim 36 depends from claim 35 and is allowable at least for the reasons that claim 35 is allowable.

Applicant respectfully submits that all claims are condition for allowance. Authorization is given to apply any charges or credits to Deposit Account No. 502923.

Respectfully submitted,

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